

Etan Leibovitz  
83-19 141<sup>st</sup> #207  
Briarwood, NY 11435

December 2<sup>nd</sup>, 2024

Honorable Judge Lois Bloom  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Received Pro Se Office via Box.com**  
**December 2, 2024**  
**4:20PM**

\*Rec. in p drive 12/5/24 rg.

**Re: Valentin Order and Serving Michael Berg with my  
Motion for Sanctions Pursuant to FRCP 11 2024  
CV 4779 (AMD) (LB)**

Dear Judge Bloom,

I am requesting that you issue an order pursuant to Valentin v. Dinkins, 121 F.3d 72 (2d. Cir. 1997) (per curiam) and instruct Assistant Attorney General Michael Berg (“Michael Berg”) to ascertain the full names of the unidentified John Doe Defendants.

Valentin v. Dinkins, 121 F.3d 72 (2d. Cir. 1997) (per curiam), the Second Circuit made clear that a pro se litigant is entitled to assistance from the district court in identifying a defendant. One means of dealing with this problem would be to permit Plaintiff to conduct discovery against the government, to serve interrogatories and document requests in an effort to identify the individuals, and once identified, to ascertain their whereabouts for purposes of service. Then Plaintiff would amend his Complaint and initiate service upon defendants. This process is not only cumbersome for a pro se plaintiff, but it also often does not achieve results. Therefore, I respectfully request that the Court direct Mr. Berg to provide the information necessary to identify the John Doe Defendants.

Additionally, I plan to effect service upon Michael Berg this week with my motion for sanctions regarding his declaration submitted in connection with his motion to dismiss, **See** Docket Entry 23- 27. If Mr. Berg does not correct the identified misrepresentations and perjured statements in his declaration, I intend to file the motion for sanctions with this Court after the 21-day safe

harbor period under Rule 11 of the Federal Rules of Civil Procedure has elapsed. "must be served on the offending party twenty-one days before it is filed with the court." Rogers v. Henry, No. 16-CV-05271 (KAM)(VMS), 2017 U.S. Dist. LEXIS 197217, 2017 WL 5495805, at \*4 (E.D.N.Y. Sept. 12, 2017) (citing Fed. R. Civ. P. 11(c)(2)).

I have included as Exhibit A, Assistant Attorney General Michael Berg's response to my emails dated November 25, 2024, and November 27, 2024. These emails were referenced in my letter to the Court on November 27, 2024 also as Exhibit A.

Respectfully Submitted,

          /S/          

Etan Leibovitz

# **EXHIBIT A**



**Etan Leibovitz** <etanleibovitz18@gmail.com> 9:27 AM (6 hours ago)

to Michael, Mamoon

Mr Berg,

I am patiently waiting for your response email.

Mr Leibovitz



**Berg, Michael** 12:38 PM (3 hours ago)

to me, Mamoon

Mr. Leibovitz,

I have reviewed your recent email correspondence regarding your anticipated motion for sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure.

Your correspondence is procedurally defective and insufficient to initiate the process of moving for sanctions.

Rule 11(c)(2) provides, in relevant part: “A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets.”

You have not served any motion for sanctions pursuant to Fed. R. Civ. P. 5. As such, no response is warranted. Moreover, absent service of your motion papers, it is impossible to discern the basis for the motion, much less respond to its substance.

State Defendants, the Office of the New York State Attorney General, and I reserve all rights to respond to any motion you may serve or file in the future. In the meantime, your proposed Rule 11 motion is a nullity.

We remind you that by Order of the Court, your motion for leave to file an amended complaint, together with the proposed amended pleading, is due to be filed by December 5, 2024.

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